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MONTANA LEGISLATIVE HISTORY

Chapter 78 1995

Bill H _____ S 160 Original bill & history ___C

H. Committee on Highways & Trans.			S. Committee on Highways & Trans.		
Hearing Date(s)	2-6	___C	Hearing Date(s)	1-26	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C	DATE OUT	1-26	
			Report	1-26	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SB 160 INTRODUCED BY L. NELSON

AUTHORIZE DEPARTMENT OF TRANSPORTATION TO ESTABLISH SPEED LIMITS ON HIGHWAYS BEING SURVEYED OR UNDER CONSTRUCTION OR REPAIR

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

1/17	INTRODUCED		
1/17	FIRST READING		
1/17	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/26	HEARING		
1/27	COMMITTEE REPORT—BILL PASSED		
1/28	2ND READING PASSED	45	0
1/30	3RD READING PASSED	48	1
	TRANSMITTED TO HOUSE		
1/31	FIRST READING		
1/31	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/06	HEARING		
2/10	COMMITTEE REPORT—BILL CONCURRED		
2/21	2ND READING CONCURRED	96	1
2/22	3RD READING CONCURRED	98	1
	RETURNED TO SENATE		
2/28	SIGNED BY PRESIDENT		
3/02	SIGNED BY SPEAKER		
3/02	TRANSMITTED TO GOVERNOR		
3/06	SIGNED BY GOVERNOR CHAPTER NUMBER 78 EFFECTIVE DATE: 10/01/95		

SB 161 INTRODUCED BY STANG, ET AL.

REPLACE TAX ON MOTORCYCLES WITH FEE IN LIEU OF TAX

1/17	INTRODUCED		
1/17	FIRST READING		
1/17	REFERRED TO TAXATION		
1/18	FISCAL NOTE REQUESTED		
1/21	FISCAL NOTE RECEIVED		
1/21	FISCAL NOTE PRINTED		
1/27	HEARING		
2/10	REVISED FISCAL NOTE REQUESTED FOR BILL AS AMENDED IN TAXATION COMMITTEE		
2/10	REVISED FISCAL NOTE RECEIVED FOR BILL AS AMENDED IN TAXATION COMMITTEE		
2/10	FISCAL NOTE PRINTED FOR BILL AS AMENDED IN TAXATION COMMITTEE		
3/03	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/04	2ND READING PASSED	43	0
3/06	3RD READING PASSED	46	3
	TRANSMITTED TO HOUSE		
3/07	FIRST READING		
3/07	REFERRED TO TAXATION		
3/21	HEARING		
4/05	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/07	2ND READING CONCURRED AS AMENDED	95	4
4/08	REVISED FISCAL NOTE PRINTED		
4/10	3RD READING CONCURRED	91	7
	RETURNED TO SENATE		
4/12	SIGNED BY PRESIDENT		
4/13	SIGNED BY SPEAKER		
4/17	TRANSMITTED TO GOVERNOR		

5/01	SIGNED BY GOVERNOR CHAPTER NUMBER 580 EFFECTIVE DATE: 01/01/96		

SB 162 INTRODUCED BY DOHERTY, ET AL.

EXTEND TERMINATION DATE FOR TAX CREDITS FOR INVESTMENTS IN DEPRECIABLE PROPERTY TO COLLECT OR PROCESS RECLAIMED MATERIAL OR MANUFACTURE A PRODUCT FROM RECLAIMED MATERIAL AND FOR TAX DEDUCTIONS FOR USE OF RECYCLED MATERIALS

BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

1/17	INTRODUCED		
1/17	FIRST READING		
1/17	REFERRED TO TAXATION		
1/18	FISCAL NOTE REQUESTED		
1/20	FISCAL NOTE RECEIVED		
1/20	FISCAL NOTE PRINTED		
1/25	HEARING		
3/15	TABLED IN COMMITTEE		
3/29	MISSED TRANSMITTAL DEADLINE FOR 71ST DAY DIED IN COMMITTEE		

SB 163 INTRODUCED BY L. NELSON

ALLOW ISSUANCE OF COMBINED LICENSE PLATES FOR VETERANS OR PERSONS WITH A DISABILITY AND AMATEUR RADIO OPERATORS

1/17	INTRODUCED		
1/17	FIRST READING		
1/17	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/18	FISCAL NOTE REQUESTED		
1/23	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
2/09	HEARING		
2/09	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/10	2ND READING PASSED	48	0
2/11	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/11	FIRST READING		
2/15	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/03	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED	72	18
3/14	3RD READING CONCURRED	88	12
	RETURNED TO SENATE WITH AMENDMENTS		
3/18	2ND READING AMENDMENTS NOT CONCURRED	46	0
3/21	FREE CONFERENCE COMMITTEE APPOINTED		
4/04	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/05	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	50	0
4/06	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	1
	HOUSE		
3/28	CONFERENCE COMMITTEE APPOINTED		
3/29	CONFERENCE COMMITTEE DISSOLVED		
3/29	FREE CONFERENCE COMMITTEE APPOINTED		
4/04	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/05	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	94	5

SENATE BILL NO. 160

INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH SPEED LIMITS ON HIGHWAYS BEING SURVEYED OR UNDER CONSTRUCTION OR REPAIR; AND AMENDING SECTION 61-8-303, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-303, MCA, is amended to read:

"**61-8-303. Speed restrictions -- basic rule.** (1) A person operating or driving a vehicle of any character on a public highway of this state shall drive ~~it~~ the vehicle in a careful and prudent manner, and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, weight of vehicle, grade and width of highway, condition of surface, and freedom of obstruction to the view ahead, ~~and he~~. The person operating or driving the vehicle shall drive ~~it~~ the vehicle so as not to unduly or unreasonably endanger the life, limb, property, or other rights of a person entitled to the use of the street or highway.

(2) ~~Where~~ When no special hazard exists that requires lower speed for compliance with subsection (1) ~~of this section~~, the speed of a vehicle not in excess of the limits specified in this section or established as authorized in 61-8-309, 61-8-310, 61-8-311, and 61-8-313 is lawful, but a speed in excess of ~~those~~ the following limits is unlawful:

(a) 25 miles per hour in an urban district;

(b) 35 miles per hour on a highway under construction or repair or on a highway being surveyed, unless the department establishes and posts a different limit due to traffic conditions or the condition of the construction, repair, or survey project;

(c) 55 miles per hour in other locations during the nighttime, except that the nighttime speed limit on completed sections of interstate highways is 65 miles per hour.

(3) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.

(4) The speed limits set forth in this section may be altered by the highway commission as authorized in 61-8-309, 61-8-310, and 61-8-313.

(5) The driver of a vehicle shall, consistent with subsection (1), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon a narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway condition."

-END-

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN LARRY TVEIT, on January 26, 1995, at 1:00 p.m.

ROLL CALL

Members Present:
Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Carla Turk, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 160, SB 49

HEARING ON SB 160

Opening Statement by Sponsor:

SENATOR LINDA NELSON, SD 49, Medicine Lake, stated that SB 160 was a simple and harmless bill which would give the Department of Transportation the flexibility to set speed limits when they were doing construction, surveying, minor repairs, etc. She explained that a few years ago she had supported SENATOR TVEIT'S bill to make the speed limit 35 mph, however, she felt there were occasions, such as crews not even working on the roads, when the Department of Transportation should have the discretion to set the limit. **SENATOR NELSON** requested a do pass recommendation from the committee.

Proponents' Testimony:

Tom Barnard, Chief Engineer, Department of Transportation, read his written testimony, **(EXHIBIT 1)**.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SENATOR CHUCK SWYSGOOD made reference to a bill which had been heard in Committee the previous week, relating to problems the town of Neihart had experienced, and noted that SB 160 would allow the Department to post different speeds suitable for traffic condition, construction repairs, or survey projects. He asked if SB 160 would apply in a case where the Department decided that conditions warranted something other than what the survey showed? **Mr. Barnard** replied that the principle behind SB 160 was the same principle the Department had opposed SB 96. He contended that the bill would set an arbitrary speed from what currently existed in law, and maintained that the Department would like the ability to set a realistic speed limit based on the construction and maintenance work flow. He reported that in areas where the arbitrary 35 mph is posted, but inappropriate for the conditions, drivers tend to ignore it.

SENATOR SWYSGOOD asked if the same thing could be said to exist in Neihart? **Mr. Barnard** responded that the public in Neihart were not complying with the speed zone because they did not believe it was realistic.

SENATOR SWYSGOOD questioned whether the Department could set a speed lower than 35 mph if they thought it was appropriate. **Mr. Barnard** stated that was correct.

SENATOR SWYSGOOD reiterated the question as to whether the same would apply in the city of Neihart? **Mr. Barnard** stated the same could happen in the town of Neihart.

SENATOR RIC HOLDEN asked **Mr. Barnard** if he had experimented and found 45 mph better than 35 mph. **Mr. Barnard** stated that the Department had experimented in the case of the chip coat on the interstate.

SENATOR HOLDEN asked where the faster speed limit would be used? **Mr. Barnard** stated that a specific example would be on the four lane interstate. He explained that there were sometimes conditions where the pavement had been disturbed in some manner which did not require active construction, and in those instances it was just unrealistic to expect people to travel at 35 mph. He

further explained that because of the disturbed pavement, the normal speed limit of 65 mph was probably not appropriate.

SENATOR ARNIE MOHL queried as to whether SB 160 addressed temporary speed controls, while the bill relating to Neihart had addressed permanent speed controls. Mr. [illegible] stated that was correct.

Closing by Sponsor: **SENATOR NELSON** simply stated that she closed.

HEARING ON SB 129

Opening Statement by Sponsor:

SENATOR BARRY STANG, SD 36, St. Regis, stated that SB 129 did two things; it helped define the Montana, so-called, basic rule and would raise the fuel conservation fine from $5.00 to $20.00. He stated an awareness of the high number of people living in rural areas of the state, but noted that Montana's speeding fine had become a joke with the rest of the country and was now obsolete. He claimed it cost more to write the ticket than was actually collected. **SENATOR STANG** pointed out the fact that people were looking for efficiency in government, and didn't feel it made sense to do inefficient things such as write $5.00 tickets when it cost around $20.00 to process them. He handed out **(EXHIBIT # 2)** and referred to the section "Ticket Fines from $200 to $5.00". He explained that the handout showed fines ranging from Connecticut's $200 to Montana's puny $5.00 and noted the fines in the states surrounding Montana. He proposed Montana raise the fine to $20.00; and contended it would still be the lowest speeding fine in the United States, but said it would at least be realistic. He pointed out that highway patrol officers would testify as to how it affected them in their job and stated that opponents would testify that it was their god given right to speed in Montana. He maintained that speeders could still speed, but said it would cost a little bit more.

Proponents' Testimony:

Joe Mazurek, Attorney General, Montana Department of Justice, thanked **SENATOR STANG** for carrying the Bill, and stated that the legislation was long overdue. He testified that law enforcement officers, particularly the Highway Patrol had a deadly serious job where they put their lives at risk every day. He attested that unfortunately the $5 ticket had become a joke and the Officers were the victims of what he considered a very cruel joke. **Attorney General Mazurek** reported that there had been a number of Highway Patrol Officers involved in shooting incidents recently and said it would be naive to think that sort of

EXECUTIVE ACTION ON SB 160

Motion/Vote: **SENATOR JABS MOVED SB 160 DO PASS. THE MOTION CARRIED UNANIMOUSLY. SENATOR JERGESON** voted yes per proxy.

ADJOURNMENT

Adjournment: The meeting adjourned the meeting at 2:46 p.m.

Sen. Tveit
SENATOR LARRY TVEIT, Chairman

Carla Turk
CARLA TURK, Secretary

LJT/cmt

SENATE HIGHWAYS
EXHIBIT NO. 1
DATE 1/26
BILL NO. SB 160

Testimony of Thomas J. Barnard, P. E.
Chief Engineer, Montana Department of Transportation

Senate Bill 160

Mr. Chairman and members of the Committee. For the record my name is Tom Barnard. I am the Chief Engineer with the Montana Department of Transportation. I am here in support of Senate Bill 160.

Current law states that the speed limit will be 35 mph on a highway under construction or repair or on a highway being surveyed. Very simply, current law gives the Department no authority to establish a reasonable speed zone zone in a area under construction or where our maintenance personnel are working or where a survey is being conducted. It limits us to 35 mph. Thirty five miles per hour may be overly restrictive in lots of cases in rural areas and at the same time may not be restrictive enough on projects within developed areas.

Let me cite a couple of examples where it is often overly restrictive. Often in rural areas there are some physical conditions within the limits of a construction project which requires that drivers slow down somewhat. For instance, sections of the pavement may be missing or new culverts may have been installed across the road and there is a bump across the roadway. Yet at the same time there is no construction activity taking place at that time. If there is no construction activity, then often 45 mph would be more

realistic.

At 45 mph the drivers would be able to see in advance bumps, such as at the culvert installation, and slow down for them whereas legal daytime speeds of 55 or 65 mph they could not. Another example is where we put down what is called a seal and cover or many of you may refer to it as a chip coat. We shoot asphalt on the road and then put small rock chips on top of it. For several days after a chip coat is applied there are loose rock. Even though we sweep the roadway right away traffic causes additional rocks to come loose. These rocks break windshields.

Current law restricts us to 35 mph even on the 4-lane interstate. What we find is that after pilot cars are removed that some drivers try to drive at 35 mph in the driving lane but end up getting passed by many other drivers who feel that 35 is totally unreasonable. These passing maneuvers cause a lot of broken windshields. We have experimented and found that if in fact we were allowed to establish the speed limit at 45 mph under these conditions then we would reduce the number of vehicles which pass therefore eliminating a lot of broken windshields.

The opposite may be true in some developed areas. Thirty five miles per hour in a developed area such as in street construction where we have curb, gutter, sidewalks, and

EXHIBIT 1
DATE 1-26-95
SB 160

underground electrical work may be excessive. It may be appropriate to establish a 25 mph speed zone.

I am sure one of the questions is how would we go about, if this bill is passed, determining what the proper speed zone is. The proper speed zone for any construction area, maintenance work zone or survey area would be established with the concurrence of our traffic engineers. These people have had many years of experience in dealing with speed zones. Speed zones would not be arbitrarily set by any Department employee. The speed zones, if other than 35 mph, would have to be set by our traffic engineers who have experience in these matters. This bill is very simple and straightforward. We would encourage your support.

Thank you and I would be glad to answer any questions you may have.

SENATE STANDING COMMITTEE REPORT

January 26, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 160 (first reading copy -- white), respectfully report that SB 160 do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

Amd. Coord.
Sec. of Senate

221548SC.SRF

HEARING ON SB 160

Opening Statement by Sponsor:

SEN. LINDA NELSON, Senate District 49, Medicine Lake, stated that SB 160 would allow the Department of Transportation the flexibility to set speed limits in construction repair or survey areas.

Proponents' Testimony:

Tom Barnard, Chief Engineer, Department of Transportation, said that current law states that a speed limit in a construction area or survey area will be 35 miles per hour and the law does not allow any flexibility. SB 160 would give the Department of Transportation the authority to set varied speed limits where appropriate. He said in some instances the 35 mile per hour speed limit could either be too slow or too fast for certain areas of the state.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. PAT GALVIN asked how SB 160 would affect construction crews. **Tom Barnard** replied that this bill would apply to maintenance crews and surveyors. He also said the speed would be set to the type of work and the area where the work is being done.

REP. PAT GALVIN asked if contracted crews would have to abide by the set speed limit. **Mr. Barnard** replied yes.

REP. BOB CLARK asked if the Department would raise the speed limit on a freshly "chipped" road to a 45 mile per hour zone. **Mr. Barnard** replied that they probably would on a four-lane interstate. He said that on two-lane roads the Department would leave the speed limit at 35 miles per hour.

REP. BOB CLARK asked if higher speeds would cause the road to lose the new "chips." **Mr. Barnard** stated that **REP. CLARK** was correct, but for the first 48 hours after the Department applies the "chips" a pilot car would guide traffic and restrict the speed. After the first forty-eight hours it should not be a large problem.

Closing by Sponsor:

SEN. LINDA NELSON closed.

PERIOD OF STATE SERVICE DURING A STATE EMERGENCY AND ARE ENTITLED TO REEMPLOYMENT AFTER THE EMERGENCY; AMENDING SECTION 10-1-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-1-603, MCA, is amended to read:

"10-1-603. ~~Depriving~~ *Prohibition to deprive* members of organized militia of employment — *entitlement to unpaid leave of absence during state emergency.* (1) A person may not willfully deprive a member of the organized militia of ~~his~~ employment or prevent ~~his~~ *the member from* being employed or obstruct or annoy a member in respect to ~~his~~ *the member's* trade, business, or employment because ~~he is a member~~ of *membership in* the organized militia.

(2) A person who serves in active state service in the organized militia in time of a disaster or an emergency declared by the proper authority of the state and not pursuant to orders issued under Title 10 or 32 of the United States Code is entitled to a leave of absence from the person's civilian employment during the period of that service. Upon termination of service, the person is entitled to reemployment with the same seniority, status, pay, and vacation as the person would have had if the person had not been absent during the period of service. However, during the period of service, the person may or may not accrue vacation leave or other benefits offered by the employer, at the option of the employer. The leave of absence may not be deducted from any sick leave, vacation leave, or other leave, and reinstatement must be in the same position as or a comparable position to the position that the person held prior to the period of service. This subsection does not entitle a public employee given leave and reinstatement pursuant to this subsection to any pay from the person's civilian employment pursuant to 10-1-604 or other law during the period of service. Nothing in this subsection may be construed to prevent an employee from voluntarily using accrued vacation leave or other already earned benefits during the leave of absence.

~~(2)~~*(3)* A person may not dissuade any person from enlisting in the organized militia by threatening to injure or injuring ~~his~~ *the person's* business, employment, or trade."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 6, 1995

CHAPTER NO. 78

[SB 160]

AN ACT AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH SPEED LIMITS ON HIGHWAYS BEING SURVEYED OR UNDER CONSTRUCTION OR REPAIR; AND AMENDING SECTION 61-8-303, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-303, MCA, is amended to read:

"61-8-303. Speed restrictions — basic rule. (1) A person operating or driving a vehicle of any character on a public highway of this state shall drive ~~it~~ *the vehicle* in a careful and prudent manner~~,~~ and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, weight of vehicle, grade and width of highway, condition of surface, and freedom of obstruction to *the* view ahead~~, and he~~. *The person operating or driving the vehicle* shall drive ~~it~~ *the vehicle* so as not to unduly or unreasonably endanger the life, limb, property, or other rights of a person entitled to the use of the street or highway.

(2) ~~Where~~ *When* no special hazard exists that requires lower speed for compliance with subsection (1) ~~of this section~~, the speed of a vehicle not in excess of the limits specified in this section or established as authorized in 61-8-309, 61-8-310, 61-8-311, and 61-8-313 is lawful, but a speed in excess of ~~those~~ *the following* limits is unlawful:

(a) 25 miles per hour in an urban district;

(b) 35 miles per hour on a highway under construction or repair or on a highway being surveyed, *unless the department establishes and posts a different limit due to traffic conditions or the condition of the construction, repair, or survey project*;

(c) 55 miles per hour in other locations during the nighttime, except that the nighttime speed limit on completed sections of interstate highways is 65 miles per hour.

(3) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.

(4) The speed limits set forth in this section may be altered by the highway commission as authorized in 61-8-309, 61-8-310, and 61-8-313.

(5) The driver of a vehicle shall, consistent with subsection (1), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon a narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway condition."

Approved March 6, 1995

CHAPTER NO. 79

[SB 196]

AN ACT REPEALING THE MONTANA RATEMAKING ACT; REPEALING SECTIONS 33-16-231, 33-16-232, 33-16-233, 33-16-234, 33-16-235, AND 33-16-236; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana: